



2005 SENATE BILL 253

July 6, 2005 - Introduced by Senators STEPP, GROTHMAN and OLSEN, cosponsored by Representatives MEYER, LOTHIAN, GARD, VOS, GUNDERSON, AINSWORTH, HAHN, KRAWCZYK, KESTELL and F. LASEE. Referred to Committee on Housing and Financial Institutions.

1 **AN ACT to amend** 59.692 (1s) (a) 2.; and **to create** 59.69 (10m), 60.61 (5m), 61.351
2 (5m), 62.23 (7) (hc) and 62.231 (5m) of the statutes; **relating to:** authorizing the
3 restoration of a nonconforming structure that is destroyed by vandalism or
4 certain natural forces.

Analysis by the Legislative Reference Bureau

Under current law, with regard to county zoning of shorelands on navigable waters, restrictions that are contained in such zoning ordinances that would apply to a damaged or destroyed nonconforming structure may not prohibit, subject to a number of conditions, the restoration of the structure if it will be restored to the size, location, and use it had before the damage or destruction occurred, unless the size must be larger to comply with state or federal requirements. In addition, and subject to the same conditions, the restrictions in the zoning ordinance may not impose limits on the costs of the repair, reconstruction, or improvement of the structure.

The conditions that apply to the restrictions in the zoning ordinance are as follows:

1. The structure must have been damaged or destroyed after October 14, 1997.
2. The structure must have been damaged or destroyed by violent wind, vandalism, fire, or flood.

Under the bill, "other natural occurrences" is added to the ways in which a structure must have been damaged. Also under the bill, restrictions that are contained in general city, village, town, and county zoning ordinances, and city and village zoning of wetlands in shorelands ordinances, may not prohibit the restoration

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of a nonconforming structure subject to the same provisions and conditions that currently apply to county zoning of shorelands on navigable waters, including the addition of "other natural occurrence." Under the bill, however, with regard to the conditions that apply to the restrictions in the zoning ordinances, the structure must have been damaged or destroyed on or after the effective date of the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.69 (10m) of the statutes is created to read:

2 **59.69 (10m)** RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a)

3 Restrictions that are applicable to damaged or destroyed nonconforming structures
4 and that are contained in an ordinance enacted under this section may not prohibit
5 the restoration of a nonconforming structure if the structure will be restored to the
6 size, subject to par. (b), location, and use that it had immediately before the damage
7 or destruction occurred, or impose any limits on the costs of the repair,
8 reconstruction, or improvement if all of the following apply:

9 1. The nonconforming structure was damaged or destroyed on or after the
10 effective date of this subdivision [revisor inserts date].

11 2. The damage or destruction was caused by violent wind, vandalism, fire,
12 flood, or other natural occurrence.

13 (b) An ordinance enacted under this section to which par. (a) applies shall allow
14 for the size of a structure to be larger than the size it was immediately before the
15 damage or destruction if necessary for the structure to comply with applicable state
16 or federal requirements.

17 **SECTION 2.** 59.692 (1s) (a) 2. of the statutes is amended to read:

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1 59.692 (1s) (a) 2. The damage or destruction was caused by violent wind,
2 vandalism, fire ~~or a~~ flood, or other natural occurrence.

3 **SECTION 3.** 60.61 (5m) of the statutes is created to read:

4 60.61 (5m) RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a)
5 Restrictions that are applicable to damaged or destroyed nonconforming structures
6 and that are contained in an ordinance adopted under this section may not prohibit
7 the restoration of a nonconforming structure if the structure will be restored to the
8 size, subject to par. (b), location, and use that it had immediately before the damage
9 or destruction occurred, or impose any limits on the costs of the repair,
10 reconstruction, or improvement if all of the following apply:

11 1. The nonconforming structure was damaged or destroyed on or after the
12 effective date of this subdivision [revisor inserts date].

13 2. The damage or destruction was caused by violent wind, vandalism, fire,
14 flood, or other natural occurrence.

15 (b) An ordinance adopted under this section to which par. (a) applies shall allow
16 for the size of a structure to be larger than the size it was immediately before the
17 damage or destruction if necessary for the structure to comply with applicable state
18 or federal requirements.

19 **SECTION 4.** 61.351 (5m) of the statutes is created to read:

20 61.351 (5m) RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a)
21 Restrictions that are applicable to damaged or destroyed nonconforming structures
22 and that are contained in an ordinance adopted under this section may not prohibit
23 the restoration of a nonconforming structure if the structure will be restored to the
24 size, subject to par. (b), location, and use that it had immediately before the damage

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1 or destruction occurred, or impose any limits on the costs of the repair,
2 reconstruction, or improvement if all of the following apply:

3 1. The nonconforming structure was damaged or destroyed on or after the
4 effective date of this subdivision [revisor inserts date].

5 2. The damage or destruction was caused by violent wind, vandalism, fire,
6 flood, or other natural occurrence.

7 (b) An ordinance adopted under this section to which par. (a) applies shall allow
8 for the size of a structure to be larger than the size it was immediately before the
9 damage or destruction if necessary for the structure to comply with applicable state
10 or federal requirements.

11 **SECTION 5.** 62.23 (7) (hc) of the statutes is created to read:

12 62.23 (7) (hc) *Restoration of certain nonconforming structures.* 1. Restrictions
13 that are applicable to damaged or destroyed nonconforming structures and that are
14 contained in an ordinance enacted under this subsection may not prohibit the
15 restoration of a nonconforming structure if the structure will be restored to the size,
16 subject to subd. 2., location, and use that it had immediately before the damage or
17 destruction occurred, or impose any limits on the costs of the repair, reconstruction,
18 or improvement if all of the following apply:

19 a. The nonconforming structure was damaged or destroyed on or after the
20 effective date of this subdivision paragraph [revisor inserts date].

21 b. The damage or destruction was caused by violent wind, vandalism, fire,
22 flood, or other natural occurrence

23 2. An ordinance enacted under this subsection to which subd. 1. applies shall
24 allow for the size of a structure to be larger than the size it was immediately before

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1 the damage or destruction if necessary for the structure to comply with applicable
2 state or federal requirements.

3 **SECTION 6.** 62.231 (5m) of the statutes is created to read:

4 62.231 **(5m)** RESTORATION OF CERTAIN NONCONFORMING STRUCTURES. (a)
5 Restrictions that are applicable to damaged or destroyed nonconforming structures
6 and that are contained in an ordinance enacted under this section may not prohibit
7 the restoration of a nonconforming structure if the structure will be restored to the
8 size, subject to par. (b), location, and use that it had immediately before the damage
9 or destruction occurred, or impose any limits on the costs of the repair,
10 reconstruction, or improvement if all of the following apply:

11 1. The nonconforming structure was damaged or destroyed on or after the
12 effective date of this subdivision [revisor inserts date].

13 2. The damage or destruction was caused by violent wind, vandalism, fire,
14 flood, or other natural occurrence.

15 (b) An ordinance enacted under this section to which par. (a) applies shall allow
16 for the size of a structure to be larger than the size it was immediately before the
17 damage or destruction if necessary for the structure to comply with applicable state
18 or federal requirements.

19 (END)